

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

EDWARD N. THOMAS,

Petitioner,

v.

LYDIA A. VILLARREAL,

Respondent.

No. 2:21-cv-0216 CKD P

ORDER AND

FINDINGS AND RECOMMENDATIONS

Petitioner has filed a petition for a writ of mandamus together with a request to proceed in forma pauperis pursuant to 28 U.S.C. § 1915. Examination of the request to proceed in forma pauperis reveals that petitioner is unable to afford the costs of suit. Accordingly, the request for leave to proceed in forma pauperis will be granted. See 28 U.S.C. § 1915(a).

The federal mandamus statute provides: “The district courts shall have original jurisdiction of any action in the nature of mandamus to compel an officer or employee of the United States or any agency thereof to perform a duty owed to the plaintiff.” 28 U.S.C. § 1361. Here, petitioner asks that the court issue a writ directed to the Superior Court of Monterey County reversing rulings they have made as to whether petitioner is a “vexatious litigant” as that term is defined by the California Judicial Counsel and ordering that court to pay petitioner damages. However, as suggested above, federal courts have no jurisdiction to issue a writ of mandamus compelling state officials to perform actions or pay damages. See Clark v. State of Washington,

1 366 F.2d 678, 681 (9th Cir. 1966) (“The federal courts are without power to issue writs of
2 mandamus to direct state courts or their judicial officers in the performance of their duties . . .”).

3 In light of the foregoing, the court will recommend that petitioner’s petition for a writ of
4 mandamus be denied.

5 Accordingly, IT IS HERBY ORDERED that:

- 6 1. Petitioner’s request for leave to proceed in forma pauperis (ECF No. 5) is granted; and
7 2. The Clerk of the Court is directed to assign a district court judge to this case.

8 IT IS HEREBY RECOMMENDED that:

- 9 1. Petitioner’s petition for a writ of mandamus be denied; and
10 2. This case be closed.

11 These findings and recommendations are submitted to the United States District Judge
12 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days
13 after being served with these findings and recommendations, petitioner may file written
14 objections with the court. The document should be captioned “Objections to Magistrate Judge’s
15 Findings and Recommendations.” Petitioner is advised that failure to file objections within the
16 specified time may waive the right to appeal the District Court’s order. Martinez v. Ylst, 951
17 F.2d 1153 (9th Cir. 1991).

18 Dated: April 1, 2021

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20 CAROLYN K. DELANEY
21 UNITED STATES MAGISTRATE JUDGE
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